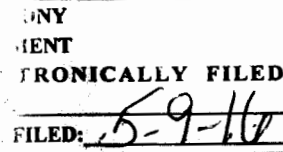


UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,



-against-

S1 16-cr-0212 (LAK)

LAQUAN PARRISH, et al.  
a/k/a "Mad Dog,"  
a/k/a/ "Quanzaa,"

Defendants.  
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**ORDER**

LEWIS A. KAPLAN, *District Judge*.


At the initial conferences in this case on April 28, 2016, the Court raised with counsel the question whether counsel learned in the law applicable to capital cases properly could be appointed for any defendants prior to the return of an indictment charging a capital crime in light of the fact that 18 U.S.C. § 3005 provides that such counsel shall be appointed at the request of any person who "is indicted for treason or other capital crime." *E.g.*, Tr., Apr. 28, 2016, 11:50 a.m., at 12:2-13. *See also* 18 U.S.C. § 3599. The government undertook to "look into it promptly and report back to the Court."

The government has submitted a letter, dated May 6, 2016, in which it assures the Court that "sufficient funds [are] available for the appointment of learned counsel in advance of any Superseding Indictments . . ." and that it therefore anticipates no issue with the appointment of learned counsel in advance of any Superseding Indictments. While the Court is encouraged by the information that sufficient funds are available and, indeed, that the government anticipates no issue with appointments of learned counsel before it supersedes the present indictment, if indeed it ultimately does so, it nevertheless requires a response to the inquiry previously posed: Does this Court have the legal authority to approve the expenditure of CJA or other public funds for the appointment of learned counsel for any defendant in advance of the return of an indictment charging that defendant with a capital offense? The Court invites the attention of the government and defense counsel to *United States v. Tsarnaev*, 951 F. Supp.2d 209 (D. Mass. 2013) (Bowler, M.J.) (collecting authority and denying request for appointment of learned counsel prior to return of indictment charging capital offense).

Any further submissions on this issue shall be filed no later than May 16, 2016. Until this issue is resolved in a satisfactory manner, the Court is not likely to approve the appointment of learned counsel.

SO ORDERED.

Dated: May 9, 2016

  
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Lewis A. Kaplan  
United States District Judge